

NEW ZEALAND 2021 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

New Zealand is a parliamentary democracy. The Labour Party, led by Prime Minister Jacinda Ardern, has an outright majority in parliament. Elections held in October 2020 were considered free and fair.

The New Zealand Police, under the minister of police, are responsible for internal security, and the armed forces, under the Ministry of Defence, are responsible for external security. Civilian authorities maintained effective control over the security forces. Members of the security forces did not commit any significant abuses.

There were no reports of significant human rights abuses.

The government had effective mechanisms to identify and prosecute officials who commit human rights abuses; there were no reports of such abuses. The government generally implemented effectively laws criminalizing official corruption.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports government officials employed them.

Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

Watchdog groups highlighted overcrowding, inadequate mental health treatment and treatment of prisoners who risked self-harm, excessive restraint (including the abuse of solitary confinement), and prisoner-on-prisoner violence as systemic problems in prisons and detention facilities. The government and civil society groups highlighted the disproportionate rates of incarceration of indigenous peoples (see section 6, Indigenous People).

Physical Conditions: Persons aged 17 or older who are accused of a crime are tried as adults and, if convicted, sent to adult prisons. Authorities held male prisoners younger than 17 in four separate detention facilities operated by the national child and youth welfare agency under the Ministry for Children (Oranga Tamariki). There was no separate facility for juvenile female prisoners because there were very few such prisoners. Due to a lack of beds in secure youth residences, at times children were detained in police cells.

Suicide and suspected suicide rates in prisons were historically higher than in the general population.

Administration: Inmates could make uncensored complaints to statutory inspectors, an ombudsperson, and nongovernmental organizations (NGOs).

Independent Monitoring: The government permitted prison-monitoring visits by independent human rights observers. The law provides for specified rights of inspection, including by members of parliament and justices of the peace. The Office of the Ombudsman inspects prisons and mental-health facilities to prevent cruel and abusive treatment, in line with international standards and domestic laws, and reports to parliament annually on prison conditions. Information was publicly available on complaints and investigations, subject to the provisions of privacy legislation.

In January prisoners at the 850-inmate Waikeria Prison rioted, alleging “dehumanizing and unhygienic” conditions. The prison was severely damaged by fires set during the six-day riot. The minister of corrections said most rioters were gang members who had never raised any concerns about their living conditions before the riot. In May the Department of Corrections began an inquiry into the riot, the department’s response, and its preparedness for such incidents throughout the prison system. Additional government criminal charges and prisoners’ civil rights claims arising from the riot were pending as of October 1.

Also in May, the Chief Ombudsman began an investigation into how the Department of Corrections responded to repeated calls for reforms for improved conditions for prisoners, including opportunities for constructive activity, such as education, employment, rehabilitation and reintegration programs, and complaints management; oversight of segregation orders; and use-of-force reviews. “In many [of these] areas, I have not seen significant and sustained improvements to prisoners’ welfare and rehabilitation,” the ombudsman said in announcing the investigation, adding that he expects his investigation to take at least a year.

Prisoners serving sentences of less than three years are eligible to vote in general elections.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government observed these requirements.

Arrest Procedures and Treatment of Detainees

Police may arrest a suspect without a warrant if there is reasonable cause; however, a court-issued warrant is usually required. Police officers may enter premises without a warrant to arrest a person if they reasonably suspect the person committed a crime on the premises or if they found the person committing an offense and are in pursuit. Police must inform arrested persons “as soon as possible” of their legal rights and the grounds for their arrest.

After arresting and charging a suspect, police may release the suspect on bail until the first court appearance. Except for more serious offenses, such as assault or burglary, bail is normally granted and frequently does not require a deposit of money. Suspects have the right to appear “as soon as possible” before a judge for a determination of the legality of the arrest and detention. After the first court appearance, the judge typically grants bail unless there is a significant risk the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. Authorities granted family members timely access to detainees and allowed detainees prompt access to a lawyer of their choice and, if indigent, to a lawyer provided by the government.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government respected judicial independence and impartiality.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. By law authorities must inform defendants promptly and in detail of the charges against them. Defendants have the right to a fair, timely, and public trial; to be present at their trial; to have counsel (the government provides a lawyer at public expense if the defendant cannot afford counsel); and to have adequate time and facilities to prepare a defense. Defendants receive free interpretation as necessary beginning from the moment they are charged through all their appeals. They have the right to confront witnesses against them, to present their own witnesses and evidence, and cannot be compelled to testify or confess guilt. They have the right to appeal convictions. The law extends these rights to all defendants.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil judicial remedies for human rights violations, including access to the Human Rights Review Tribunal. There are also administrative remedies for alleged wrongs through the Human Rights Commission and the Office of Human Rights Proceedings.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions. The government's chief privacy officer is responsible for supporting government agencies to meet their privacy responsibilities and improve their privacy practices.

After 2020 media reports of trials of facial recognition systems by police, Immigration New Zealand, and the Internal Affairs Department, in August 2020 the government launched the Algorithm Charter, a set of guidelines for government agencies detailing transparency and accountability standards for the use of data.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution and laws provide for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the media.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

After a terrorist attacked mosques in Christchurch in 2019, the government imposed an open-ended ban on publication via the internet and other means of the video footage of the attack and on the attacker’s “manifesto.” The government followed up with the Christchurch Call to Action, which called for other governments, civil society, and online service providers to do more to “eliminate terrorist and violent extremist content online.”

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Legal challenges to COVID-19 pandemic-related restrictions – in particular, the inability of citizens and permanent residents to re-enter the country due to insufficient capacity within the border quarantine system – continued.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. The country's Refugee Resettlement Strategy is reviewed annually.

Access to Asylum: The law provides for granting asylum or refugee status, and the government has an established system for providing protection to refugees. Refugees can arrive in the country in three ways: 1) through the UNHCR resettlement program; 2) additional asylum seekers (also known as "protection claims," see below) can be recognized as refugees; or 3) family members can be reunified with refugees already living in the country. The COVID-19 pandemic response reduced scheduled intakes.

While most persons claiming asylum were not detained at any stage, some were held in prisons because of security concerns or uncertain identity. Asylum seekers detained in prisons are subject to general prison standards. In July NGOs supporting asylum seekers, including Amnesty International, claimed many detained asylum seekers were held longer than the 28 days permitted by law "as a deterrent for asylum seekers" and that some had been sexually assaulted and attempted suicide while in prison. In response the government commissioned an independent review into whether Immigration New Zealand's detention decisions over the last five years met its international obligations; the review will not cover treatment within prison, which falls to the Department of Corrections.

Durable Solutions: The country accepts approximately 1,500 refugees under the UNHCR resettlement program, although the UNHCR's 2020 temporary, COVID-19-related suspension of refugee resettlements meant that quota was not met during the year. Refugees who arrive through this program are granted permanent residence status. When refugees arrive, they stay at a central refugee resettlement center in Auckland for six weeks; they also receive settlement support for up to 12 months, including help with English, health, education, and employment.

Temporary Protection: The country provided temporary protection to persons who did not qualify as refugees under its UN quota commitment. Given COVID-19-related international travel restrictions, few asylum seekers claimed refugee status during the year. Advocacy groups were concerned that the asylum seekers outside the UN quota system did not receive the same level of governmental support as quota refugees, specifically in finding work.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: In October 2020 elections seen as free and fair, the Labour Party led by Prime Minister Jacinda Ardern won an outright majority in parliament. The election was delayed from September by agreement of all political parties, due to a COVID-19 outbreak in Auckland.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of historically marginalized or minority groups in the political process, and they did participate. Following the 2020 election, 48 percent of the members of parliament were women, up from 38 percent after the 2017 election.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. The Serious Fraud Office and police investigate corruption. Allegations of corruption can be reported anonymously, and the law protects employees who make a report relating to their employers. Agencies such as the Office of the Controller and Auditor General, and the Office of the Ombudsman independently report on and investigate state-sector activities, acting as watchdogs for public-sector corruption. Only parliament can remove individuals, who are known as officers of parliament, from these positions.

Several investigations into alleged irregularities within national and local politics were underway. In February the Serious Fraud Office brought charges of campaign finance breaches against two unnamed defendants in the New Zealand First Foundation, a funding organization for former deputy prime minister Winston Peters' New Zealand First Party; a trial is scheduled for June 2022. In April police

referred the Maori Party to the Serious Fraud Office after it failed to declare financial donations to the Electoral Commission within the time required. One former independent member of parliament also faced election legislation-related charges.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The Ministry of Justice funded the Human Rights Commission, which operates as an independent agency without government interference. The commission had adequate staff and resources to perform its mission.

The Office of the Ombudsman, responsible to parliament but independent of the government, is charged with investigating complaints about administrative acts, decisions, recommendations, and omissions of national and local government agencies; inspecting prisons; and following up on prisoner complaints. The office enjoyed government cooperation, operated without government or party interference, had adequate resources, and was considered effective. The ombudsman produced a wide variety of reports for the government that were publicly available.

The law mandates that the Department of Internal Affairs provide administrative assistance to significant public and governmental inquiries into, among other items, human rights abuses. The only large-scale inquiry underway during the year was an investigation into abuse in care.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape of women and men, including spousal rape. The government enforces this law. The maximum penalty is 20 years' imprisonment; however, preventive detention may occur in cases where the parole board, during its annual review, believes the prisoner poses a continuing threat to society.

Reported rates of violence against women remained at high levels, according to domestic and international observers. Ministry of Justice data for 2020-21 showed convictions for sexual offenses increased slightly from 2019-20. According to the ministry's most recent annual *Crime and Victims Survey* (October 2019-September 2020) approximately 2 percent of adults had experienced sexual violence in the previous 12 months; this figure did not change significantly from previous years. The report, however, described "worryingly low levels" of reporting of sexual violence, noting that "94 percent of sexual assaults were not reported to Police." Women were more than two times more likely than men to have experienced intimate partner violence and three times more likely to have experienced sexual violence.

Domestic violence is a criminal offense. Police were responsive to reports of domestic violence. The law provides victims with 10 days of paid domestic violence leave. The government partially funded women's shelters, psychosocial services, rape crisis centers, sexual abuse counseling, family-violence victim support networks, and violence prevention services. Victim's programs include: a crisis response plan for the 72 hours after a sexual assault; programs to reduce harmful sexual behavior, offending, and reoffending; programs focusing on adults who pose a risk to children; and services for male survivors of sexual abuse.

The law defines family violence to reflect how controlling behavior can be used over time to frighten victims and undermine their autonomy. It also names 10 government agencies and a range of social service practitioners as family violence agencies; provides principles to guide decision making and timely responses across agencies; and allows information sharing between agencies to increase victims' safety.

Sexual Harassment: The law prohibits sexual harassment, requires employers to ensure their workplace is free of behaviors that are unwelcome or offensive, and

provides for civil proceedings in cases of workplace harassment. The government, through the Human Rights Commission, effectively enforced the law. Sexual contact induced by certain threats also carries a maximum prison sentence of 14 years. The Human Rights Commission published a guide on making a complaint about sexual harassment. The guide includes access to the commission's free, informal, and confidential service for questions or complaints about sexual harassment and unlawful discrimination. The commission also published fact sheets on sexual harassment and made regular sexual harassment prevention training available to schools, businesses, and government departments.

After media reports in June revealed incidents of alleged sexual harassment in the media industry, information released under the Official Information Act showed there had been numerous incidents of alleged sexual harassment at state broadcasters Television New Zealand and Radio New Zealand, as well as at several private broadcasters, in the last year. Two workers and one external contractor were asked to leave Television New Zealand due to sexual misconduct.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

In 2020 the Human Rights Commission expressed concern about informed consent and the legal permissibility of nontherapeutic medical procedures including sterilization. Under the country's *Disability Action Plan 2019-2023*, the Ministries of Health and of Social Development examined the legal framework that protects the bodily integrity of children and adults with disabilities for nontherapeutic medical procedures.

The government provides access to health services, including emergency contraception, for survivors of sexual violence.

Discrimination: The law provides for the same legal status and rights for women and men, including under family, religious, personal status, labor, property, nationality, and inheritance laws. The government effectively enforced the law. Although the law prohibits discrimination in employment and requires equal rates of pay for equal or similar work, in August Statistics New Zealand identified a gender pay gap of 9 percent between women and men. Academics and watchdog

groups argued that the lack of pay transparency hindered pursuing pay discrimination claims.

Systemic Racial or Ethnic Violence and Discrimination

Under the law violence and discrimination against racial or ethnic minorities is prohibited; the government enforced these laws effectively.

In its 2020 annual report, the Human Rights Commission stated that approximately 12 percent of complaints of alleged unlawful discrimination raised with the commission related to race, racial harassment, or racial disharmony.

Pacific Islanders were 8 percent of the population in the 2018 census. They experienced some societal discrimination and had higher-than-average rates of unemployment (7.8 percent in June) and among the lowest labor force participation (66 percent) of any ethnic group.

Several government ministries, including the Ministry for Pacific Peoples and the Ministry of Health, had programs to identify gaps in delivery of government services to Pacific Islanders and to promote their education, employment, entrepreneurship, culture, languages, and identity. After the country's first Delta-variant COVID-19 outbreak in August, which disproportionately affected Pacific Island and Maori communities, some Pacific Islander and health practitioners criticized the government and media for inadequately addressing low vaccination rates in their communities.

In July the Ministry for Ethnic Communities was created to focus on promoting diversity and improving minority communities' inclusion in the wider society and their economic outcomes.

Asians, who were 15 percent of the population, reported some societal discrimination. Advocacy groups noted a rise in bullying and harassment of persons of Asian, especially Chinese, descent during the COVID-19 pandemic. The Human Rights Commission launched a website to help Asian persons understand their rights during the pandemic.

Indigenous Peoples

Approximately 16.5 percent of the population claimed descent from the indigenous Maori people. The government bestows specific recognition and rights, enshrined in law, custom, and practice, on Maori persons. These rights derive from the 1840 Treaty of Waitangi, the country's founding document, which guarantees autonomy, self-determination, sovereignty, and self-government to Maori persons.

The law prohibits discrimination against the indigenous population, but there were disproportionately high numbers of Maori persons on unemployment and welfare rolls, in prison, among school dropouts, and in single-parent households. Maori persons have elevated infant mortality statistics. Maori persons experienced some societal discrimination and had higher rates of unemployment than non-Maori – 7.8 percent in June, above the country's average of 3.9 percent – and a labor force participation rate of 68 percent, below the country's average of 70 percent.

To redress historic violations by the government of the terms of the Treaty of Waitangi, the Waitangi Tribunal, a standing commission of inquiry adjudicates claims by various Maori groups (*iwi*). The tribunal makes recommendations on claims brought by Maori relating to legislation, policies, actions, or omissions of the government that are alleged to breach the promises made in the Treaty of Waitangi. The government continued active negotiations with almost all *iwi* that made claims.

As of June, Maori persons were 53 percent of the prison population and 46.5 percent of persons serving community-based sentences. In February several prisoners' rights activists questioned the progress of *Hokai Rangi*, a five-year strategy launched in 2019 by the corrections minister aimed at reducing the number of Maori persons in prison.

Children

Birth Registration: Children born in the country attain citizenship if either parent is a citizen or legal permanent resident of the country. Children born outside the country attain citizenship if either parent is a citizen. The law requires notification of births by both parents as soon as “reasonably practicable,” deemed as being within two months of the child's birth, and most births were registered within this period.

Child Abuse: The law defines and prohibits child abuse, and the government effectively enforced the law. The government promoted information sharing between the courts and health and child protection agencies to identify children at risk of abuse.

The law permits the Ministry for Children to act quickly to ensure the safety of newborn babies at immediate risk of serious harm, notably from parental substance abuse, family violence, or medical neglect. Admissions to Care and Protection Residences run by the ministry have declined over the past decade. A disproportionately high percentage of children (approximately 60 percent) entering children's ministry homes were Maori. Children less than five years old made up 30 percent of all children entering into care.

Child, Early, and Forced Marriage: The legal minimum age for marriage is 18 for both men and women, but persons between 16 and 18 may marry with family court approval. Marriages involving persons younger than 18 were rare. Watchdog groups believed that parents forced a small number of marriages of persons between the ages of 16 and 18.

Sexual Exploitation of Children: The law provides that any person who engages in sexual conduct with a person younger than 16 – the minimum age for consensual sex – is liable to a maximum prison sentence of 10 years. Further, the law makes it an offense punishable by seven years' imprisonment to assist a person younger than 18 in providing commercial sexual services; to receive earnings from commercial sexual services provided by a person younger than 18; or to contract for commercial sexual services from, or be a client of, a person younger than 18. While these statutes cover dealing in persons younger than 18 for sexual exploitation, the trafficking-in-persons statute requires a demonstration of deception or coercion to constitute a child sex-trafficking offense. The authorities may prosecute citizens who commit child sex offenses overseas, and they did so in cooperation with several foreign governments during the year.

Government statistics reported 363 convictions in 2020 for sexual offenses against children younger than age 16, down from more than 380 convictions during the previous year.

The law prohibits child pornography and provides for a maximum 14 years' imprisonment as well as heavy fines if a person produces, imports, supplies, distributes, possesses for supply, displays, or exhibits an objectionable publication. The Censorship Compliance Unit in the Department of Internal Affairs polices images of child sex abuse on the internet and prosecutes offenders.

Institutionalized Children: In March inspectors from the Office of the Children's Commissioner heard "serious allegations" of staff bullying, excessive use of force, and inappropriate use of isolation while visiting Oranga Tamariki Care and Protection Residences. The commissioner's report stated there was not enough evidence to prove the allegations, but neither could they show the allegations were false.

In July the ministry announced the closure of the Oranga Tamariki Care and Protection Residence in Christchurch; media reported "a number of serious issues involving staff," including physical restraint of children, were investigated. In September the children's minister accepted the findings of a ministerial advisory board that he had appointed earlier in the year to recommend ways to improve the ministry's "disconnected" relationship with Maori communities.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

According to the 2018 census, the Jewish community numbered approximately 5,200. While anti-Semitic incidents remained relatively rare, in June the New Zealand Jewish Council expressed concern over the number of anti-Semitic incidents recorded in the previous year. "2020 saw 33 anti-Semitic incidents recorded (including anti-Semitic comments online), the highest number since records began in 1990," the council said.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities – whether physical, sensory, intellectual, or mental – unless such discrimination can be “demonstrably justified.” The government effectively enforced applicable laws. Most school-age children with disabilities attended either schools dedicated to children with disabilities or mainstream schools. The unemployment rate for persons with a disability in 2020 was 8 percent, twice that of persons without a disability. Unlawful discrimination on the grounds of disability was the second most cited cause of complaints to the Human Rights Commission in 2020.

The Human Rights Commission and the Ministry for Disabled People, created in late October, worked to protect and promote the rights of persons with disabilities. Both the Human Rights Commission and the Mental Health Commission addressed mental disabilities in their antidiscrimination efforts. Watchdog groups were concerned about compulsory assessments and treatments and the use of seclusion and restrictive practices in medical facilities, especially those involved with mental health services. Maori persons were significantly more likely to be subjected to these practices.

In August the ombudsman highlighted “serious and persistent” problems at mental health units, contrasting the results of simultaneous inspections at two colocated facilities, one where seclusion or restraint facilities were being used and one where no seclusion was used – described as “best practice in the treatment of those detained.” Several previous ombudsman reports recommended that such practices should stop.

Approximately 20 percent of eligible voters had a disability and potentially faced obstacles in exercising their voting rights. The Electoral Commission has a statutory obligation to administer the electoral system impartially and seeks to reduce barriers to participation by developing processes that enable citizens with disabilities to access electoral services fully.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

The law does not criminalize consensual same-sex sexual conduct between adults older than 16. The law prohibits abuse, discrimination, and acts of violence based on sexual orientation and gender identity, and the government enforced the law. According to the Ministry of Justice's most recent *Crime and Victims Survey* (October 2019-September 2020), gay, lesbian, or bisexual adults had more than twice the average likelihood of experiencing intimate partner violence and sexual violence.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions of their choice without previous authorization or excessive requirements, to bargain collectively, and to conduct legal strikes, with some restrictions. The law prohibits antiunion discrimination. While the law does not require reinstatement of workers dismissed for union activity, courts may order this at their discretion.

Police have the right to freedom of association and the right to organize and bargain collectively, but sworn police officers (including all uniformed and plainclothes police but excluding clerical and support staff) do not have the right to strike or take any form of industrial action.

Contractors and self-employed persons are not covered by most employment-related laws (excluding health and safety laws) and cannot join unions, bargain collectively, or conduct strike action.

Workers may only strike while negotiating a collective bargaining agreement or over matters of health and safety. An employer may employ another person to perform the work of a striking employee under strict conditions. Strikes by providers of essential services are subject to certain procedural requirements, including mandatory notice of three to 28 days, depending on the service involved.

The list of essential services was broader than international standards on the definition of essential services.

To bargain collectively, unions must be registered, independent, governed by democratic rules, and have a minimum of 15 members. Unions may not bargain collectively on social or political issues.

The government respected these rights and effectively enforced applicable laws without lengthy delays. Employment legislation places a statutory duty on both unions and employers to bargain in good faith and entitles both employees and employers to engage in economic sanctions (strikes and lockouts) to support their bargaining claims. The law provides penalties for violations of freedom of association or collective bargaining protections and includes fines commensurate with similar crimes. Cases were occasionally referred to the civil employment court.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced labor. The government's efforts to enforce the law were not always effective. Penalties were commensurate with similar crimes. Fines can be imposed for labor violations that may be indicators of forced labor such as underpayment of wages and excessively long working hours. The government did not initiate any new labor trafficking prosecutions during the year.

In August the Court of Appeal rejected an appeal from Joseph Matamata, a horticultural contractor, who was sentenced to 11 years' imprisonment in 2020 on slavery and trafficking-in-persons charges. The court also dismissed a government counterclaim for a longer sentence but did agree that a minimum nonparole period of five years should be imposed.

In June media reported that the Employment Relations Authority, the government body tasked with resolving employment disputes, had a backlog of up to 12 months in hearing cases, due to COVID-related restrictions and staff shortages.

Recruitment agencies that recruit workers from abroad must utilize a licensed immigration adviser. The Immigration Advisers Authority, an independent body,

promotes and protects the interests of individuals receiving immigration advice. It licenses individuals deemed fit and competent to give immigration advice; maintains standards and a code of conduct for immigration advisers; investigates individuals giving immigration advice without a license; and receives complaints from persons who believe they received poor immigration advice. Media reports during the year suggested migrant workers were vulnerable to forced labor in sectors including horticulture, retail, agriculture, construction, hospitality, and domestic service. Reports stated that some migrant workers from South and East Asia were charged excessive and escalating recruitment fees, experienced unjustified salary deductions, nonpayment or underpayment of wages, excessively long working hours, and restrictions on their movement. Some had their passports confiscated and contracts altered improperly. Victims were often deterred from filing complaints out of fear of jeopardizing their visa status.

In July, as part of broader government initiatives to combat migrant labor exploitation, a six-month visa to allow migrant workers to leave exploitative work situations quickly yet remain lawfully in the country came into force.

In August several labor rights advocates complained when the government stopped the emergency welfare and accommodation support provided to migrant workers since 2020 because COVID-19-related travel restrictions prevented many of them from returning home. The group argued the change made the workers more vulnerable to workplace exploitation and forced labor.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor and provides for a minimum age of employment, limitations on working hours, and occupational safety and health restrictions for children. By law children younger than 16 may not work between 10 p.m. and 6 a.m. The law also states that children enrolled in school may not work, even outside school hours, if such employment would interfere with their education. The law bans employment of children younger than 15 in specific hazardous industries such as manufacturing, mining, and forestry.

Government inspectors effectively enforced these laws. The law outlines prison sentencing guidelines and fines for the most serious offenses. Penalties were commensurate with similar crimes.

Small numbers of children ages 16 to 18 worked in hazardous situations, such as in agriculture: the law requires them to be fully trained. Children younger than 15 cannot drive a tractor or large vehicle, except children working in agriculture if they are older than 12 and are fully trained or are being trained, or if they live on the property. The commercial sexual exploitation of children remained a problem, and the government convicted 363 perpetrators for sexual offenses against children younger than 16 (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> for information on the Cook Islands, Niue, and Tokelau.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment and occupation on the grounds of age, sex (gender) or sexual orientation; marital or relationship status; religious or ethical beliefs; skin color, race, ethnicity, or country of origin; disability, impairment, or illness; political opinions; and employment status. The law prohibiting discrimination does not address refugee or stateless status. The government effectively enforced these prohibitions, and penalties were commensurate with laws related to civil rights.

The Human Rights Commission has an equal opportunity employment team that focuses on workplace gender-related problems. This team regularly surveyed pay scales, conducted a census of women in leadership roles, and engaged public and private employers to promote compensation equality. According to Business New Zealand in 2018, 82 percent of discrimination complaints were closed within three months and 97 percent were closed within 12 months. In July the new Ministry for Ethnic Communities took over the role of the Office of Ethnic Affairs in promoting ethnic diversity in employment.

According to the New Zealand Council of Trade Unions (NZCTU), Maori and Pacific Island persons – and Maori and Pacific Island women in particular –

remained disadvantaged compared with the general population in terms of conditions of employment and wages. According to government body Statistics NZ, across all sectors the female-male gender pay imbalance in June was minus 9 percent for the entire population. Nonetheless, according to the NZCTU, Pacific Island women were paid between 22 and 25 percent less than non-Maori women. As of September, the Human Rights Commission was investigating “the persistent Pacific pay gap and lack of equal employment opportunities experienced by Pacific peoples.” According to Statistics NZ, in 2019 the public service reflected a gender pay gap of 10.5 percent based on occupational structure, gender segregation, and seniority.

Persons with disabilities faced employment discrimination in hiring and access to the workplace. The unemployment rate for persons with disabilities was twice the national average.

e. Acceptable Conditions of Work

Wage and Hour: The minimum hourly wage was adjusted on an annual basis to be above the amount – 60 percent of the median household income – that researchers frequently used as an unofficial poverty level.

The law provides that work hours should be set in collective or individual agreements between employers and employees. Although a 40-hour workweek is traditional, employer and employees may contractually agree to a workweek of more than 40 hours. Overtime pay is negotiable. Labor regulations do not define an absolute maximum number of overtime hours.

Occupational Safety and Health: The government established appropriate occupational safety and health standards and proactively investigated labor conditions. Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment and have primary responsibility for individual’s health and safety at work. The government requires employers to provide health insurance for their seasonal workers. The law allows workers to refuse to perform work likely to cause serious harm and permits legal recourse if the worker believes an employer penalized them as a result.

In cases of noncompliance with labor law, inspectors have the authority to make unannounced visits and to shut down equipment, levy fines, require restitution of wages to workers, and revoke licenses of offenders. The Ministry of Business, Innovation, and Employment enforces laws governing working conditions, including wages and hours, through sub agencies such as the Labor Inspectorate and Employment NZ. The number of inspectors was sufficient to enforce compliance. In particular, employers who have breached minimum employment standards regarding vulnerable migrant workers face a set “stand-down” period where they lose the ability to support migrant visa applications for at least 12 months. As of September, 64 companies or employers were on the stand-down list.

Labor ministry inspectors effectively enforced wages, hours, safety, and health rules in all sectors including the informal economy. WorkSafe, the official occupational health and safety authority, reported that 75 percent of surveyed employers changed their workplace practices following inspections. Convictions for violations of the occupational health and safety law as well as for violations of the wages and hours law can result in fines, deportation of noncitizens, or imprisonment. These penalties are commensurate with similar violations.

Between July 2020 and June 2021, the country had 55 workplace-related fatalities (excluding occupational disease). The most dangerous sectors were categorized by WorkSafe as agriculture, construction, transport and warehousing, and forestry.